

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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R.C. and M.B., on behalf of their minor child, N.C.,

Plaintiffs,

**AFFIDAVIT IN
OPPOSITION TO
DEFENDANT'S CROSS-
MOTION FOR
SUMMARY JUDGMENT**

-against-

07 CIV 2806
(MDF)

BOARD OF EDUCATION OF THE HYDE PARK
CENTRAL SCHOOL DISTRICT,

ECF Case

Defendant.

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STATE OF NEW YORK)
COUNTY OF DUTCHESS) ss:

LINDA A. GERACI, being duly sworn, deposes and says:

1. I am the attorney for Plaintiffs in this matter. I make this affidavit in support of Plaintiffs' Motion for Summary Judgment and in opposition to Defendants' Cross-Motion for Summary Judgment.

2. Submitted herewith is an Affidavit of Plaintiff M.B. to which is attached as Exhibit B a speech/language evaluation conducted by the District in April 2007.

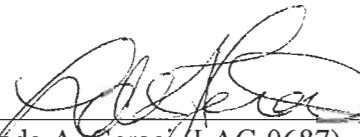
3. For reasons set forth below and in the accompanying Memorandum of Law, we respectfully request that the Court consider this evaluation as additional evidence in support of our argument that the Kildonan School provided an appropriate education to N.C. during the 2005-2006 school year.

4. The Individuals with Disabilities Education Act provides that in reviewing a State Review Officer decision, the court, "shall hear additional evidence at the request of a party". 20 U.S.C. §1415 (i)(2)(C)(ii).

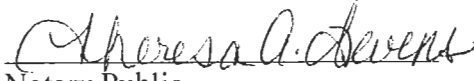
5. Here the speech/language evaluation was not provided to the Plaintiffs by the District. Rather, it was obtained by the Plaintiffs on July 27, 2007 from St. Francis Hospital, which had been engaged by the District to conduct an auditory processing evaluation of N.C. on that same date.

6. The evaluation is material to the Court's analysis in that it shows that after 2 years at the Kildonan School the District's speech/language therapist believes N.C. is no longer in need of speech therapy. Because, as set forth in the Affidavit of M.B., N.C. remained at Kildonan in essentially the same program during the 2006-2007 school year, this evaluation is highly relevant to the issue of the appropriateness of the Kildonan School for N.C. Both the Hearing Officer and the State Review Officer found Kildonan inappropriate based on their findings that N.C.'s mixed receptive/expressive speech disorder was not been appropriately addressed.

WHEREFORE, it is respectfully requested that the Court consider this evaluation as additional evidence, and grant Plaintiffs' Motion for Summary Judgment in its entirety.


Linda A. Geraci (LAG 0687)

Sworn to before me this 9th
day of August, 2007


Notary Public

THERESA A. DEVENS
Notary Public, State of New York
No. 01DE6154538
Qualified in Dutchess County
Commission Expires October 23, 2010